REMARKS

Amendments to claims 1, 9, and 17 are to incorporate limitations from canceled claims 2, 10, and 18, respectively. No new matter has been added.

I. CLAIM OBJECTIONS

Claims 2, 10, and 18 stand objected to. These claims have been canceled.

II. CLAIM REJECTIONS UNDER 35 U.S.C. § 102/103

Claims 1 and 9

Claims 1 and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,085,333 (DeKonig). Claims 2 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DeKonig in view of U.S. Patent No. 6,438,704 (Harris).

Claims 1 and 9 have been amended to incorporate some limitations of canceled claims 2 and 10, respectively, and each recites preventing a first resource consumer from starting new activity on the computer system, wherein the act of preventing the first resource consumer from starting new activity comprises setting an activity limit applicable to the first resource consumer to a prescribed value. Applicants agree with the Examiner that DeKonig does not disclose or suggest such limitation. However, Harris fails to make up the deficiency present in DeKonig. As discussed with the Examiner in a telephonic interview, the cited passages (column 2, lines 29-36, column 4, lines 6-11, and figure 6) of Harris disclose setting a CPU usage limit (which is not an active session limit), and therefore, does not disclose or suggest setting an *activity limit* applicable to the first resource consumer to a prescribed value. Because both DeKonig and Harris fail to disclose the above limitation, they cannot be combined to form the resulting subject matter of claims 1 and 9. For at least the foregoing reason, claims 1 and 9, and their respective dependent claims, are believed allowable over DeKonig, Harris, and their combination.

Claim 17

Claim 17 stands rejected under 35 U.S.C. 103(a) as being unpatentable over DeKonig in view of U.S. Patent No. 6,003,061 (Jones). Claim 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DeKonig in view of Jones, and further in view of Harris.

Claim 17 has been amended to include some limitations from canceled claim 18, and recites a scheduler that prevents the first resource consumer from starting new activity on the computer system by setting an activity limit applicable to the first resource consumer to a prescribed value. Applicants agree with the Examiner that the combination of DeKonig and Jones does not disclose or suggest setting an active session limit (an example of an activity limit) applicable to the first resource consumer to a prescribed value. However, Harris fails to make up the deficiency present in DeKonig and Jones. As discussed with the Examiner, the cited passages (column 2, lines 29-36, column 4, lines 6-11, and figure 6) of Harris disclose setting a CPU usage limit (which is not an activity limit), and therefore, does not disclose or suggest setting an *activity limit* applicable to the first resource consumer to zero. For at least the foregoing reasons, claim 17 and its dependent claims are allowable over DeKonig, Jones, Harris, and their combination.

Claims 8 and 16

Claims 8 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DeKonig in view of Jones , and further in view of U.S. Patent No. 6,263,359 (Fong).

Claim 8 recites replacing the first resource plan with a second resource plan, the second resource plan comprising a first resource consumer group and a second resource consumer group, the second resource plan being adapted to prevent the first resource consumer group from starting new activity on the computer system. Claim 16 recites similar limitations. According to the Office Action, lines 3-8 of the abstract of DeKonig discloses replacing a first resource plan with a second resource plan. However, the cited passage of DeKonig actually discloses:

> In a first embodiment after the spare controller is swapped into the storage subsystem, if the native controller determines that the spare controller's

> operating code is incompatible with the native controller's operating code, then the native controller notifies the spare controller that synchronization is required between both controllers.

As such, the cited passage does not disclose or suggest replacing a first resource plan with a second resource plan, even less, replacing a first resource plan with a second plan to prevent a first resource consumer group from starting new activity. For at least the foregoing reason, claims 8 and 16, and their respective dependent claims, are believed allowable over DeKonig, Jones, Fong, and their combination.

In addition, Applicants respectfully submit that the motivation to combine DeKonig and Fong is not present. To establish a case of obviousness under 35 U.S.C. § 103, there must be some motivation to combine the teaching of the references. (M.P.E.P. 706.02(j)). Furthermore, the fact that the references can be combined or modified is not sufficient to establish prima facie obviousness. (M.P.E.P. 2143.01). Rather, the prior art must suggest the desirability of the claimed invention. (M.P.E.P. 2143.01). In this case, because DeKonig specifically teaches providing resource to individual resource consumers, it teaches away from combining with Fong (which allegedly discloses grouping of resource consumers). According to the Office Action, enhancement of the functionality of DeKonig by serving consumer requests based on priority is allegedly the motivation to combine DeKonig and Fong. However, Applicants respectfully submit that the cited references do not provide such motivation. Even assuming that somehow either of the cited references discusses serving consumer requests based on priority, Applicants submit that such does not automatically result in a "motivation" to combining DeKonig with Fong, and even less, to modify DeKonig in the manner as recited in the claims. To the extent that the Examiner disagrees, it is respectfully requested that the Examiner point to where that motivation can be found so that Applicants can address the basis for the Examiner's conclusion that the references are properly combinable. Because either of the prior art relied on by the Examiner fails to disclose or suggest any motivation for, or desirability of, the limitations as recited in claims 8 and 16, Applicants submit that modifying the prior art without relying on a teaching or suggestion from the prior art is impermissible hindsight. For at least the foregoing reasons, Applicants respectfully submit that a

prima facie case for the § 103 rejection has not been established, and request that the § 103 rejection for claims 8 and 16 be withdrawn.

Claims 5, 13, 21, and 24

Claims 5-7, 13-15, and 21-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DeKonig, Jones, and Fong, and further in view of Harris.

Claim 5 recites configuring the first configurable value to a quiescence value, the quiescence value being adapted to limit the number of newly active sessions for the first resource consumer group to zero. Claims 13 and 21 each recites similar limitations. As discussed with the Examiner, none of the cited references discloses or suggests a quiescence value for limiting the number of newly active sessions for a resource consumer group to zero, even less, a configurable value that is configurable to such quiescence value. Also, because DeKonig teaches away from grouping resource consumers in a group, there is no motivation to combine DeKonig with Fong, even less, in the manner as described in claim 5. For at least the foregoing reasons, claims 5, 13, and 21, and their respective dependent claims, are believed allowable over DeKonig, Jones, Fong, Harris, and their combination.

Claim 24 recites a resource plan, the resource plan comprising a first resource consumer group and a second resource consumer group, the resource plan being adapted to prevent the first resource consumer group from starting new activity on the computer system. As discussed with the Examiner, none of the references, alone or in combination, discloses or suggests using a resource plan to prevent a resource consumer group from starting new activity, wherein the resource plan includes first and second resource consumer groups. Also, because DeKonig teaches away from grouping resource consumers in a group, there is no motivation to combine DeKonig with Fong, even less, in the manner as described in claim 24. For at least the foregoing reasons, claim 24 and its dependent claims are believed allowable over DeKonig, Jones, Fong, Harris, and their combination.

CONCLUSION

Based on the foregoing, all remaining claims are believed in condition for allowance. If the Examiner has any questions or comments regarding this amendment, please contact the undersigned at the number listed below.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Bingham McCutchen's Deposit Account No. **50-2518,** referencing billing number **7010984002**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Bingham McCutchen's Deposit Account No. **50-2518,** referencing billing number **7010984002**.

Respectfully submitted,
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